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OGC 77-4369

8 JUL 1977

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MEMORANDUM FOR: Director of Central Intelligence

VIA : Office of General Counsel
Deputy Director for Administration
Deputy Director of Central Intelligence

FROM : F. W. M. Janney
Director of Personnel

SUBJECT : Facilities for Physical Conditioning and Recreation

REFERENCE : A. OP Memorandum 76-6231, dtd 15 Dec 76,
Subject: Survey of Interest in Facilities
for Physical Conditioning, Recreational
and Social Activities (Attached)

B. OL Memorandum, dtd 4 Apr 77, Subject:
Study of External Recreational Facilities
at Headquarters (Attached)

C. OGC Memorandum 77-3706, dtd 10 June 77,
Subject: Use of Appropriated Funds for
Physical Conditioning and Recreational
Facilities (Attached)

1. Action Requested: This memorandum presents recommendations for your consideration with regard to facilities for physical conditioning and recreation.

2. Background:

a. An employee survey was initiated at the request of the DDCI in October 1976 to determine interest in these programs. While the results of the survey did not provide overwhelming support for a multi-purpose recreational building, considerable interest was expressed in physical fitness, exercise and athletic activities that could be provided at the work location (reference A). The results of the survey were reviewed with the DDCI in January 1977 and it was determined that a program of moderate improvements in facilities would be developed for consideration. In view of the magnitude of the project, we have perforce deferred consideration of facilities for buildings other than Headquarters until we have more experience and answers to questions already raised.

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b. It has been determined from previous Office of General Counsel (OGC) reviews that appropriated funds cannot be used for recreational purposes but that they can be used for official physical conditioning programs designed to maintain a level of physical fitness required to perform official duties. The FBI provides a large gymnasium, supervised exercise and a variety of specialized conditioning facilities which were justified during the construction of their new building to provide for physical fitness of their special agent personnel. We have used a similar approach in constructing our Physical Fitness Room, purchasing necessary equipment, providing a physical fitness instructor and installing the indoor running track. In our case we have cited the need for physical conditioning of the DCI Protective Staff and of personnel required to meet the special medical requirements for overseas duty. When considering improvements in the facilities, it is necessary, therefore, to draw a distinction between personal recreation and official physical conditioning in order to determine possible funding sources.

c. Reference B is a planning study prepared by the Real Estate and Construction Division (RECD), OL, presenting recommendations for limited improvements in existing indoor facilities, proposed locations for external facilities and cost estimates. With regard to improving existing indoor facilities, action has already been taken in several areas. Meetings have been held with representatives of Logistics, Medical Services and Personnel to determine needed improvements. The GSA Building Manager was apprised of the importance of the program and this resulted in a complete spring cleaning of the Headquarters Physical Fitness Area, including painting of the walls and woodwork. The asphalt tile floor was replaced to improve the cleanliness and appearance of the Area. A revised cleaning schedule has been established to provide for more frequent and thorough service. Necessary repairs to the indoor running track have been completed. Finally, the Office of Personnel has as a FY 1977 MBO Objective the completion of a fully coordinated review with Medical Services of the operation of the Headquarters Building Physical Fitness Rooms with a view toward achieving a measurable improvement in the service provided. All of these improvements are being made with appropriated funds as necessary for the official physical conditioning of Agency personnel.

d. With regard to external facilities, a review of all available land adjacent to the Headquarters compound was made. Two areas were identified as best suited for development, one for walking and jogging trails and a second for physical conditioning and recreational activities. The walking and jogging trails would cost approximately \$600 with the only real expense being signs to mark the path and direct participants. It would be entirely within the compound and would require no site preparation (see attachment 5, reference B).

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e. There would be considerable site preparation and cost involved in the second area of development which would be for major facilities such as: tennis and basketball courts, fields for softball, football and soccer, and a picnic area. The location is directly behind the Printing Services Building. Complete development of this area, with all of the facilities and lighting included in our plans, would cost about \$160,000. It is recognized that this large sum is not likely to be available and the plans, therefore, indicate the costs of individual components which could be constructed incrementally in a variety of combinations.

f. While official physical conditioning is often thought of as an individual program of exercise and/or running, there are other activities that accomplish the same results. For instance, many individuals prefer to play handball, squash, or basketball regularly in order to maintain a good physical condition. Facilities for this purpose are provided in the official physical fitness areas of other Federal agencies. Other facilities, such as tennis courts, are equally useful for physical conditioning but are frequently omitted because of space limitations. All of these facilities would provide a valuable addition or alternative for Agency employees who have official physical conditioning requirements.

g. The Director of Security has recommended that access to the major facilities area be through the outside fence so that it is not necessary to breach the main perimeter security fence or any security fence adjacent to the West Parking Lot and Printing Services Building. In order to maintain security control of the area and limit public access, it would be necessary to install an Electro Card lock gate with a wooden arm that raises when an appropriate card is inserted in the machine. It is estimated that \$15,100 would be required for an electric gate, gravel road, 20-car parking lot and necessary electric service work. An OGC opinion has been requested as to whether this cost could be funded from appropriated funds since it is essentially a security requirement.

h. New buildings would eventually be constructed in this area if the conceptual master plan for the development of the site were followed. There is no indication at this time that such construction will take place in the near future. The planned buildings would not, in any case, cover the proposed tennis courts or handball court. It is likely that the basketball/volleyball court would be eliminated by building construction. The softball, football and soccer fields would definitely be lost to new buildings.

i. A limited source of non-appropriated funds is available through the Central Employees Activities Fund (CEAF) which is used for the general benefit and morale of Agency personnel. This fund

has been established from excess net profits of self-sustaining activities and net proceeds from the termination and liquidation of assets of such activities. It has been determined that up to \$25,000 could be made available for recreation purposes without unduly jeopardizing the ability of CEAF to satisfy future requirements.

j. The Employee Activity Association (EAA) is another source of non-appropriated funds. After reviewing the RECD planning study the EAA Board of Directors has voted to make available up to \$50,000 for the following facilities that meet the needs of large numbers of active EAA participants, provided that a determination is made that appropriated funds cannot be used for this purpose and provided that the area will be available for this purpose for a reasonable period of time considering the expenditure involved:

<u>Facility</u>	<u>Estimated Cost</u>
Softball	\$ 9,100
Football/Soccer	11,000
Basketball	9,250
Volleyball	350
Handball	5,500
Contingency, maintenance and upkeep	<u>14,800</u>
TOTAL	\$50,000

There are not sufficient EAA funds available at this time to consider tennis courts, a second football field or the lighting of the individual facilities. These are matters which the EAA Board would address in the future if this becomes necessary and desirable and funds become available.

k. There is also the possibility that non-appropriated funds could be raised through the contributions, investment or dues payments of employees and retirees. In the early 1970's NSA surveyed their employees and found only 40 willing to invest as much as \$500 in a multi-purpose club. They were unable to move ahead with their very ambitious plans. Our own employee survey in October 1976 did not provide any clear demonstration of financial support for a particular activity or method of operation. Some employees wanted to include family and guests while others were concerned about maintaining cover. Most had a specific activity that they were particularly interested in and their support likely hinged on the availability of that particular facility.

3. Staff Position:

a. Section 8 of the CIA Act provides that sums made

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available by appropriation may be expended for health service programs. These services are further defined in Section 7901 of Title 5 as programs to promote and maintain the physical and mental fitness of employees. However, in its most recent opinion on this subject (reference C) OGC indicates that there are sufficient doubts about the justification for an Agency physical fitness program that appropriated funds should not be used for the proposed new facilities unless specific authorization is obtained from Congress or a review by the Comptroller General is requested.

b. The walking and jogging trails are a necessary adjunct to our present indoor track and Physical Fitness Room. They would provide an alternative for individuals involved in official physical conditioning and should be developed if the estimated cost of \$600 can be paid from appropriated funds; otherwise, CEAF funds should be used.

c. Security is the principal factor involved in requiring that access to the major facilities area be through the outer fence. It is possible that the expenditure of \$15,100 for an electric gate, required electric service, gravel road and 20-car parking lot could be from appropriated funds. In the event appropriated funds cannot be used, CEAF funds should be used for this purpose.

d. Our Headquarters Physical Fitness Area is limited in size and there is no room for expansion. There is a need to provide a broader range of activities and the only way to accomplish this in the foreseeable future is with external facilities. We believe that additional alternatives are necessary to meet official physical conditioning requirements and it is possible the following activities could be paid for from appropriated funds if the Comptroller General agrees or Congressional authorization is obtained:

<u>Activity</u>	<u>Estimated Cost</u>
Tennis - 4 courts	\$50,000
Basketball	9,250
Volleyball	350
Handball	5,500

e. At this time we would have greater difficulty in applying the concept of official physical conditioning to team sports such as football, softball and soccer. While conditioning is certainly involved, there is a somewhat rigid and limited schedule of activity. It is our conclusion that EAA should be permitted to fund the football, softball and soccer fields. If appropriated funds are not available for the basketball, volleyball and handball facilities, EAA should also be permitted to fund these facilities. Careful consideration must be given, however, to the possibility of new building construction in this area in the future.

f. We believe that consideration of the lighting for the various areas should be deferred until we have some experience with the use of the facilities. It would also appear that the picnic area is not essential at this time.

g. If some or all of the facilities considered above are constructed, there will be a need for drinking fountains and trash containers. The cost of these is estimated at \$7,560 and it should be provided from appropriated funds if the facilities are similarly funded. If appropriated funds are not available, CEAF funds should be used. While we did not obtain cost estimates on restroom facilities, this would be a limited additional expense.

h. One of the best gymnasiums and physical fitness facilities available in Government buildings is the new FBI Building. They were able to justify their program and commit the needed space during the construction planning stage. While there are no immediate prospects for new building construction for the Agency, this appears to be the only available opportunity to provide for a gymnasium, squash and indoor handball courts, and possibly an indoor swimming pool. We believe that such facilities should be an important part of any future plans for new buildings.

i. The other possible source of financial support would be fund raising from employees or retirees. There are separate problems and considerations in such activities. We would not be able, for instance, to invite retirees to use any of our physical fitness facilities that are provided by appropriated funds since they are intended only for employees. Individuals who made contributions or paid dues would expect certain considerations in terms of use, hours of operation and general administration which might not prove possible or desirable from an Agency management viewpoint. While fund raising remains a possibility, it is believed that we should defer consideration at this time until other alternatives have been fully explored.

j. In summary, an overall plan has been developed which would provide a substantial improvement in facilities for physical conditioning and recreation. Appropriated funds cannot be used for recreation purposes and should not be used for the proposed physical conditioning facilities without further review by the Congress or the Comptroller General. External review will require considerable delay and we cannot predict which facilities could ultimately be provided with appropriated funds. Fund raising would also result in further delays. Since there is a need for additional facilities now, and non-appropriated funds are available from CEAF and EAA, it is our conclusion that this source should be used to get the program moving with specific appropriation requests to follow in order to augment the official physical fitness program.

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4. Recommendation: It is recommended that you approve the following course of action:

a. The RECD planning study contained in reference B be approved for use in developing facilities for physical conditioning and recreation.

b. Construction of the following facilities using appropriated funds, for security and physical fitness purposes, if OGC concurs, or CEAF funds as an alternative:

<u>Facilities</u>	<u>Estimated Cost</u>
Walking and Jogging Trails	\$ 600
Electro Card Gate, Road, Parking and Electric Service	<u>15,100</u>
TOTAL	\$15,700

c. Construction of the following recreational and unfunded physical fitness facilities with funds made available from CEAF and EAA:

	<u>Facilities</u>	<u>Estimated Cost</u>	<u>Physical Conditioning</u>	<u>Recreation</u>
CEAF	Drinking Fountains, Trash Containers	\$ <u>7,560</u>	x	
	TOTAL CEAF	\$ 7,560		
EAA	Softball	\$ 9,100		x
	Football/Soccer	11,000		x
	Basketball	9,250	x	
	Volleyball	350	x	
	Handball	5,500	x	
	Contingency, maintenance and upkeep	<u>14,800</u>	x	
	TOTAL EAA	\$50,000		

d. Specific appropriations be requested at the earliest date possible for the construction of four tennis courts at an estimated cost of \$50,000 as a part of our health services program for the physical fitness of employees.

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e. If appropriations are provided for these facilities, consideration should be given in subsequent appropriation requests to the lighting and upgrading of existing facilities.

f. Inclusion in future budget
shower room

FROM COMPTROLLER

This Office concurs in the recommendations contained in paragraph 4 with the proviso that the use of appropriated funds for these items set out in sub-paragraph 4(b) be reviewed by the Comptroller to ensure that there is a reasonable relationship between the expenditures and the physical security programs and personnel related services in the congressional budget submission.

STATINTL

I agree.

7/14/77

Deputy Director of Central Intelligence

Date

STATINTL

APPROVED:

Subject to Congressional review
Director of Central Intelligence

DISAPPROVED:

Director of Central Intelligence

Date:

- 8 AUG 1977

* Subject to comments on routing slip.

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e. If appropriations are provided for these facilities, consideration should be given in subsequent appropriation requests to the lighting and upgrading of existing facilities.

f. Inclusion in future building plans of a gymnasium, shower room, locker facilities, squash and handball courts, exercise room and indoor swimming pool for official physical fitness purposes.

STATINTL


F. W. M. Janney


Atts

STATINTL

CO

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STATINTL
for Office of General Counsel

Date


Deputy Director for Administration


Date

Deputy Director of Central Intelligence

Date

STATINTL

APPROVED:

 *subject to Congressional review*
Director of Central Intelligence

DISAPPROVED:

Director of Central Intelligence

Date:

- 8 AUG 1977

* Subject to comments on routing slip.

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